Northwestern Ohio Synod ELCA

STATEMENT OF POLICY:

Dealing with Allegations of Sexual Misconduct by Rostered Clergy and Lay Leaders in the Northwestern Ohio Synod ELCA



"Come to me all you that are weary and are carrying heavy burdens, and I will give you rest.

Take my yoke upon you, and learn from me; for I am gentle and humble in heart, and you will find rest for your souls. For my yoke is easy, and my burden is light."

Matthew 11: 28-30



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A. Introduction

The Northwestern Ohio Synod of the Evangelical Lutheran Church in America (ELCA) is committed to preventing sexual misconduct within its member congregations and all other ministry settings. Such settings need to be safe places for all.

The intent of this document is to establish guidelines for dealing with allegations of sexual misconduct by rostered leaders on the ELCA roster of the Northwestern Ohio Synod. If allegations of sexual misconduct are reported to the Northwestern Ohio Synod Office of the Bishop, this document outlines the process that is used to review such complaints. Because each case of sexual misconduct brings with it individual circumstances, the Bishop reserves the right to modify this process as necessary for the resolution of each case. The process begins with a report of the alleged sexual misconduct to the Bishop or a representative of the Bishop, as well as the subsequent steps involved in the investigation of the alleged misconduct, including dealing with the aftermath of such allegations and the ensuing results of the allegations with the applicable ministry setting.

This document outlines the process of the appropriate and necessary steps to report the action and initiate a specific and accessible procedure through which such issues can be resolved and healing can begin for all involved parties. Sexual misconduct damages the lives of God's people including both laity and those called to rostered leadership in the church.

This damage can be so great that the church, in all its expressions, has committed itself to developing specific guidelines for understanding and dealing with sexual misconduct. It is not the intent of this document or the policy itself, that rostered leaders feel constrained by legalism, but rather that they feel empowered to better understand the nature and dynamics of relationships which are formed with members of their faith communities and to understand appropriate boundaries within such dynamics.

Likewise, it is not the intent that members of the laity become increasingly suspicious of their rostered leaders or look for the misuse of power, but rather that they be freed from concerns that their vulnerability might be abused by those whom they have come to trust and to understand appropriate boundaries as well.

B. Terms

1. SEXUAL MISCONDUCT

"The expectations of this church regarding the sexual conduct of its ordained ministers [rostered leaders] are grounded in the understanding that human sexuality is a gift from God and that ordained ministers [rostered leaders] are expected to reject sexual promiscuity, the manipulation of others for purposes of sexual gratification, all attempts of sexual seduction and sexual harassment, including taking physical or emotional advantage of others."

ELCA Vision and Expectations, 1990



Federal and state laws make distinctions among various types of sexual misconduct, such as "sexual harassment," "sexual abuse," and "sexual assault." Some types of sexual misconduct may provide grounds for discipline but may not be unlawful, while other types may be unlawful but may not provide grounds for discipline.

However, within the church, any sexual contact between pastors and parishioners or any person for whom a rostered individual has a pastoral responsibility, unless those two individuals are married to each other, is not acceptable behavior and is out of the bounds of proper conduct for rostered leaders.

These distinctions are not intended to measure levels of concern — **any** sexual misconduct of a rostered leader should be reported and the process outlined in these documents followed. The synod is concerned about *all* sexual misconduct by rostered leaders, regardless of whether or in what manner the misconduct is characterized by the law or by the governing documents of the ELCA.

2. Complainant

As used in these Guidelines for Dealing with Allegations of Sexual Misconduct by Rostered Clergy and Lay Persons in the Northwestern Ohio Synod ELCA (herein after referred to as "Guidelines") complainant means a person who reports sexual misconduct to the synod.

3. ROSTERED LEADER

As used in these Guidelines, *rostered leaders* includes both ordained clergy and rostered lay professionals, includes associates in ministry, diaconal ministers and deaconesses. These Guidelines will assume that ordained clergy or a rostered lay professional who is accused of sexual misconduct is rostered in the Northwestern Ohio Synod. Should that not be the case, the complainant would contact the bishop's office of the synod where the individual is rostered.

C. The Roles of the Congregation and the Synod

The synod and its member congregations have different responsibilities and, thus, different roles to fulfill in preventing and responding to reports of sexual misconduct of rostered leaders.

Each ELCA congregation calls its own rostered leader(s), determines the applicable duties and responsibilities within the guidelines of the *Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America* as outlined in Chapter 7 entitled *Ministry*. This chapter outlines the Basic Standards of a call to ministry within the Evangelical Lutheran Church in America.

As a result of such a call, the congregation supervises its rostered leader(s), the day-to-day ministry of each leader, and decides, when and if the need arises, to terminate the rostered leader(s)' call(s).



Provisions exist under Chapter 7.46 of the Constitutions, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America for termination of the mutual relationship between an ordained minister and a congregation under certain conditions.

The synod urges each congregation to be a safe place for all who enter their doors; to adequately perform that obligation congregations need to commit that such processes are, or will be put, in place to ensure that sexual misconduct will be addressed when it might occur.

These *Guidelines* are the synod's, and therefore, do not dictate the role played by the congregation in preventing and responding to allegations of the sexual misconduct of a rostered leader. This, however, should not obscure the fact that congregations have a vital role in preventing and responding to allegations of sexual misconduct of a rostered leader in their context.

The <u>synod strongly urges congregations to develop their own sexual misconduct policies</u>. In many cases, insurance companies will require it for the renewal of any policies held by the church. For particulars relative to your congregation, check with your insurance provider.

In the event that the rostered leader resigns their call, the synod urges the congregation to fulfill its responsibilities relative to providing appropriate financial compensation for the rostered leader.

GENERAL UNDERSTANDINGS

Each report of sexual misconduct involving rostered leaders involves individual circumstances. The North-western Ohio Synod will, as a synod of the Evangelical Lutheran Church, follow the ELCA guidelines as outlined in Chapters 20 and 21 of the Evangelical Lutheran Church in America Constitution, Bylaws, and Continuing Resolutions (August 2005 edition) and Section D of Rules Governing Disciplinary Proceedings Against an Ordained Minister, a Rostered Lay Person, or a Congregation of the ELCA (November 14, 1999).

These *Guidelines* describe the general process the synod will follow in responding to reports of the sexual misconduct of a rostered leader. As mentioned previously, the uniqueness of each case will define how these *Guidelines* will be followed in each case; therefore, the synod reserves the right to depart from these *Guidelines* as necessary and appropriate.

It should be noted that the synod, in particular circumstances, may not be able to assume primary responsibility for addressing all allegations of sexual misconduct. <u>Civil law requires that cases involving children or vulnerable adults be reported to the appropriate civil authorities</u>. The synod will assist in these cases as deemed necessary by outside authorities.

2. When the synod provides leadership and resources for pastoral care in the wake of allegations of sexual misconduct of a rostered leader, it is performing ministry. The nature of the synod's responsibility to answer God's call to minister to those harmed by sexual misconduct is ecclesiastical, not civil.

The same is true of the synod's freedom to decide who will be on its roster of ministers, and of the responsibility of each congregation to decide who will preach and teach from the pulpit and within the congregation. Nothing in these Guidelines is intended to diminish these ecclesiastical functions or to create any legal rights or responsibilities.



3. In the case of allegations of sexual misconduct, the bishop and the bishop's staff cannot themselves function as a pastor, counselor, advocate, attorney, or another fiduciary to any person involved in, or affected by, sexual misconduct or an allegation thereof.

The ultimate responsibility of the bishop and his or her staff is to the synod and not to any individual within the synod. For this reason, the bishop may appoint a designee who may assist with those involved in, or affected by, sexual misconduct or an allegation thereof.

D. Synodical Process

1. PREVENTION EFFORTS

The synod is committed to preventing sexual misconduct by rostered leaders in the following ways:

- a. The synod will not tolerate sexual misconduct by its rostered leaders. The synod will reiterate this in educational opportunities which it sponsors such as periodic boundary workshops; in discussions with candidates who interview in this synod, and in its public and private statements regarding the issue.
- b. The synod will provide ongoing educational opportunities regarding the prevention of sexual misconduct by rostered leaders, congregations, and others. The synod strongly urges its rostered leaders and congregations to take advantage of any such educational opportunities offered by this synod, other ELCA synods and other sponsoring organizations as well.
- c. The synod strongly urges congregations to provide ongoing educational opportunities regarding sexually abusive behavior, sexual harassment, sexual assault, and other types of sexual misconduct in the church, in the community, in the school, and in the home.
- d. The bishop and the bishop's staff will also continue to be involved in educational opportunities which are available to them. The synod recognizes the changing nature of this issue and will strive to remain updated on the latest ELCA and other information. In light of that, these *Guidelines* will change from time to time. Any such changes will be highlighted and sent to congregations and rostered leaders.
- e. Synodical staff will provide educational and supportive information in the following ways:
 - <u>Resource listing</u> Provide a listing of updated resources on an annual basis to congregations and those on the roster of the ELCA in the Northwestern Ohio Synod.
 - 2. <u>General information</u> Through mailings to congregations and rostered leadership and through distribution at conference meetings and Bishop's conference meetings, rostered leaders' gatherings, and special gatherings for rostered leaders' spouses, the synod will make available appropriate information concerning the process for reviewing allegations of sexual misconduct of rostered leaders.
 - 3. <u>Synod assembly</u> Updates regarding the reporting procedures for allegations of sexual misconduct by rostered leaders will be included in voting member packets and highlighted from the podium, when appropriate, and on an as-needed basis.



- 4. <u>Congregations</u> Brochures containing information about, and the process for reporting allegations of sexual misconduct of rostered leaders will be provided to each congregation and congregations are encouraged to provide a copy for each congregational member.
- 5. <u>Rostered Leaders New to Synod</u> The synod staff will make available to rostered leaders new to the synod these *Guidelines*, a list of resources, and a contact person to whom questions may be referred.
- 6. <u>Small Groups</u> Efforts will be made to address the unique circumstances of rostered clergy. This may include, but is not limited to, such opportunities as small group colloquies. These sessions will be informational and educational in nature, as well a setting to ask questions, and raise concerns. Synod staff will be present at these sessions to address issues, concerns and questions as they arise.
- 7. <u>Workshops</u> From time to time, the influx of new individuals rostered in the synod will dictate that a training session and workshop on boundary issues related to sexual misconduct and other unhealthy behaviors is necessary. These will typically be held every two or three years as the need indicates. At this workshop, an outside individual trained in working with sexual misconduct and misconduct in other areas will be the presenter(s). There will time for interaction, discussion and feedback.

These preventative efforts are intended to complement similar efforts that have been, or will be made by, the synod's member congregations, by the churchwide organization, by ELCA seminaries, colleges and universities, and by other entities affiliated with the ELCA.

2. INITIAL COMPLAINANT CONTACT WITH SYNOD

Even the best preventative measures cannot completely eliminate sexual misconduct by rostered leaders. The synod must always be prepared to respond to reports of misconduct. The more open the synod is to receiving such reports, the more open individuals will be to report incidents of sexual misconduct.

For the purposes of facilitating these *Guidelines*, contact persons will be available to receive concerns regarding alleged sexual misconduct by a rostered leader. Contact individuals for the synod are the synod bishop and the synod administrator.

a. Complaint is Received

The complainant may anonymously ask questions of the contact person about how the synod would respond to a particular complaint of misconduct. The contact person will meet as soon as possible with the complainant in order to do the following:

- 1. More fully hear the story of the complainant;
- 2. Assure the complainant that the synod and the ELCA take seriously the matter of sexual misconduct by a rostered leader and seeks to make the congregations of this synod and the ELCA save places for all;
- 3. Provide information concerning how the synod deals with allegations of sexual misconduct;



The complainant may be accompanied at this and future meetings by a friend, family member, support person or advocate of his/her choosing.

b. If contact has been made with an individual designated by the bishop's office for first-contact, the contact person will be in communication with the bishop's office regarding the reported sexual misconduct.

However, at the appropriate time, the bishop or the bishop's designee may request from the complainant that the allegation be submitted via notes from the initial meeting that the complainant has signed and dated as an accurate representation of the complaint or that the complainant will submit in writing the allegations.

Such documentation should be detailed and specific and should include the dates, location, number of incidents, manner of occurrence(s) and any other detailed information that can be provided by the complainant. This information should be signed by the complainant and dated.

It must be stressed to the complainant that the individuals serving as contact persons are acting on behalf of the synod, and any information they are given will be shared with the bishop and/or bishop's designee of the synod.

The bishop or bishop's designee will also ask the complainant what he/she is seeking as a result of coming forward. The complainant will be given a copy of these *Guidelines* if he/she has not already received a copy. These *Guidelines* will be reviewed by the bishop or the bishop's designee with the complainant with a request at the end of the review if the complainant understands the process being undertaken to review the allegations of sexual misconduct.

The contact person will be in communication with the bishop's office regarding any or all reported allegation(s) of sexual misconduct.

- c. After receiving a written complaint signed by the complainant, the bishop will review the complaint with the contacting individual, addressing such issues as:
 - 1. The credibility of the complaint;
 - 2. The need for further investigation; and
 - 3. The applicability of state law.
- d. If the complainant refuses to submit a written, signed allegation, or refuses to sign the notes taken at the initial meeting with the contact person, the bishop may continue the investigation if there seems to be sufficient evidence that the misconduct has occurred.

Insofar as possible, the synod will respect the wishes of the complainant regarding confidentiality. However, the synod may be required by civil law or by the governing documents of the ELCA to disclose the identity of the complainant. In any event, the identity of the complainant may become known, despite the best efforts of the synod to protect it. The synod cannot guarantee confidentiality to a complainant at any point in this process.

If the bishop, or the bishop's designee, learns that a child, a young minor, or a vulnerable adult may have been neglected or sexually abused, the bishop or bishop's designee may be legally required to

report that information to the appropriate authorities.

e. The bishop or bishop's designee will discuss with the complainant his or her needs for pastoral care or professional counseling. If the complainant requests, the bishop or bishop's designee will assist the complainant in contacting qualified individuals who can provide such care or counseling. *Under no circumstances will any employee of the synod function as the complainant's advocate, pastor, or counselor.*

The bishop or the bishop's designee will keep in regular contact with the complainant and will inform the complainant of significant developments. A contact person will be available to respond to the complainant's questions and concerns about the process and the findings.

3. Investigation of the Complaint

- a. An investigation will be conducted by the bishop or bishop's designee and may include, but not limited to, the following:
 - 1. Further discussions with the complainant(s);
 - 2. A review of the rostered leader's records held by the synod, by another ELCA synod, by the ELCA, or by an entity affiliated with the ELCA;
 - 3. Interviews with the following parties:
 - 3.1. Former bishops of the rostered leader;
 - 3.2. Assistants to former bishops of the rostered leader;
 - 3.3. Present and past staff members of congregations where the rostered leader has served in the past or is currently serving;
 - 3.4. Leaders of congregations where the rostered leader has served in the past or is currently serving.
 - 3.5. Friends of the rostered leader; and
 - 3.6. Friends, family members, pastors, or counselors of the complainant.
- b. This preliminary investigation will be conducted as quickly and as discreetly as possible. Those contacted will be asked to keep the nature and content of the contact in strictest confidence. If it is determined that the rostered leader did not commit sexual misconduct, that result will be communicated to those who were contacted by the synod in the course of its preliminary investigation.



4. REVIEW OF THE COMPLAINT

a. Conversation with the Rostered Leader:

The bishop normally will meet with the rostered leader after the preliminary investigation is concluded. (The bishop may be accompanied by the bishop's designee.) In some cases, the bishop or bishop's designee may meet with the rostered leader immediately after, or before, meeting with the complainant. If the bishop meets alone with the rostered leader, the bishop will make it clear that the meeting is not confidential and that the bishop may disclose anything he or she is told.

At this meeting the bishop will share with the rostered leader information concerning the complaint and ask the rostered leader for a response. The bishop may ask for a written response from the rostered leader. The bishop will also do the following:

- 1. Assure the rostered leader that the synod will give any rostered person who denies a sexual misconduct allegation a full and fair opportunity to contest it;
- 2. Explain the synod's process for responding to allegations of sexual misconduct and provide a copy of these Guidelines;
- 3. Answer the rostered leader's questions about these Guidelines;
- 4. Express care and concern for the rostered leader;
- 5. Request that the rostered leader have no contact with the complainant, either directly or indirectly;
- 6. Invite the rostered leader to contact an advocate and to be accompanied by that advocate through the investigation and the disciplinary processes. If the rostered leader requests it, the synod will assist the rostered leader in finding an advocate.
- 7. Invite response to the charges from the rostered leader. Should the rostered leader admit to the charges brought against him or her at this meeting, the Bishop may request the immediate resignation of the pastor from the congregation or ministry being served or from the ELCA clergy roster, dependant upon the nature of the charges;
- 8. Or, the rostered leader, acknowledging and/or admitting to the allegations may submit their resignation immediately from the congregation or ministry setting being served or from the clergy roster, dependant upon the nature of the charges being admitted to by the rostered individual.



The bishop or bishop's designee will keep in regular contact with the rostered leader and will inform her or him of significant developments. The bishop or bishop's designee will also be available to respond to the rostered leader's questions and concerns regarding these Guidelines.

5. RESPONSE BY THE BISHOP

After meeting with the rostered leader, the bishop will carefully review the information provided by the complainant discovered during the preliminary investigation, and information provided by the rostered leader during the meeting with the bishop. The bishop will then decide upon a course of action. Among options available to the bishop are the following:

- a. Take no further action;
- b. Render a written admonition to be placed in the rostered leader's permanent record;
- c. Conduct a further investigation;
- d. Recommend restrictions of the professional activities of the rostered leader;
- e. Request that the rostered leader undergo a psycho-diagnostic evaluation;
- f. Consider whether the rostered leader should take a leave of absence and make recommendations accordingly, without prejudice, affecting the rostered leader;
- g. Convene a consultation or advisory panel;
- h. Ask the rostered leader to resign his or her call;
- i. Initiate the formal disciplinary process; and/or
- j. Take any further action as deemed appropriate.

These options are listed for purposes of illustration only and are not directive in nature. The bishop may pursue any or all of the above options, in any manner or order not otherwise inconsistent with the governing documents of the ELCA.

6. CONSULTATION OR ADVISORY PANEL

To assist the bishop in bringing about a just and appropriate resolution to the complaint, the bishop may, at his or her sole discretion, appoint a consultation or advisory panel per the ELCA Constitution, Section



20.21.04, 2005 edition. This panel is a small group of lay and rostered persons that may make recommendations to the bishop and seek to address the complaint in ways that are both pastoral and therapeutic.

The disciplinary proceeding is the process by which the ELCA determines whether the accused has committed the offense as charged. This process is governed by the *ELCA Constitution and Bylaws*, Chapter 20 (2005 edition) and by the *Rules Governing Disciplinary Proceedings* (approved by the ELCA Church Council December 5, 1993 and as amended on November 14, 1999).

7. DISCLOSURE

The Northwestern Ohio Synod will support and assist the process needed for the healing of individuals, congregations, organizations, institutions, and other communities through the appropriate disclosure of necessary information. Disclosure will be made to those deemed appropriate by the bishop or the bishop's designee.

Disclosure will never involve revealing the identity of the complainant(s) or of the facts that would make the complainant(s) readily identifiable. After the complaint has been reviewed, the disclosure may occur at any point in the process, at the discretion of the bishop or designee.

In general, disclosure will be made to the following individuals:

- a. The complainant(s);
- b. The leadership of the rostered leader's congregation, organization or institution, the members of the rostered leader's congregation, the members of the rostered leader's family, and, when necessary, to other rostered leaders.

Disclosure will first be made to the leaders and/or officers of the rostered leader's congregation, organization or institution. The bishop's or the bishop's designee will work closely with the leaders of the rostered leader's setting regarding appropriate disclosure to the members of the congregation, organization or institution.



Disclosure will be made to those individuals listed above if:

- 7.1. The rostered leader admits to having committed sexual misconduct or is found to have committed sexual misconduct;
- 7.2. The rostered leader resigns his or her call or resigns from the roster of the ELCA;
- 7.3. The rostered leader is placed on leave from call or is temporarily suspended in response to an allegation of sexual misconduct;
- 7.4. The rostered leader is suspended or removed from the roster as a result of formal disciplinary proceedings;
- 7.5. Legal proceedings (civil or criminal) are initiated against the rostered leader; or
- 7.6. In such other instances as are deemed appropriate by the bishop or the bishop's designee.

The following information will be disclosed:

- 7.7. The fact that the rostered leader has been accused of, admitted to, or found to have committed sexual misconduct;
- 7.8. Whether or not the rostered leader has admitted to or denied the allegation(s); and
- 7.9. Other information as is deemed appropriate by the bishop or the bishop's designee.

8. FOLLOWING THE DISCLOSURE: AFTERCARE TO THE CONGREGATION

- a. Disclosure is telling the truth about what has happened. The next step involves each person dealing honestly and acknowledging their reactions to this truth.
- b. A broad-based (representative of all age and committee groups) congregational meeting needs to be held as early as possible after the disclosure. This is a gathering of the community to speak honestly and compassionately together about a difficult matter as it affects them.

It is important for the sake of the congregation for its unity in the gospel and for its mission that as it responds to the impact of the trauma of sexual misconduct that members come together in a meeting to listen, talk and pray. It is especially important in the wake of the crisis for persons to hear other voices and to be heard by others as well.

If the congregation continues to process the information only in private or only in the context of existing affinity groups and 'camps' within the congregation, secrecy results and thus "gossip" begins with some individuals and spreads as "truth" to others. As a result, misinformation and innuendos, based on mistruth, may create deeper divides and serious conflicts within the congregation. Many of these conflicts become wrapped into the history of the congregation and the memory of members present at that time. Consequently, some members, current and future, remain oblivious to any past issues. As a result, factions exist within the congregation that may be unknown to all; such factions create insidious, ongoing conflict far into the future, and become more apparent when addressing most issues related to congregational life. Much of this conflict can be avoided with open, truthful dialogue.



c. The meeting is planned cooperatively by the bishop or the bishop's designee, lay leaders of the congregation and any outside consultants or counselors chosen by the congregation to participate. The content and facilitation of the meeting is planned in consultation with the bishop or bishop's designee.

Questions that may be addressed include:

- 1. What is the "truth" that can be shared with all in the congregation (disclosure)?
- 2. What is the real and perceived impact of this on our congregation? (now and future)
- 3. What is likely to happen to the rostered leader as a consequence of this?
- 4. What are some of the needs that require immediate response, either related to the incident(s) or in the absence of the pastor?
- 5. What do people fear will happen? (now and future)
- 6. What healing needs to happen now? How will future healing needs be identified?

It will be important to record and report on these findings and recommendations. The group can then decide who is taking responsibility for the next steps? Congregational council; special task force; a consultant?

- d. Topics and/or resources for future meetings might be proposed. Other issues might include the following:
 - 1. Boundary setting;
 - 2. Re-establishing trust;
 - 3. Expectations of pastors and other church workers;
 - 4. Healthy partnerships and vulnerability.

Many congregations conclude, at some point, that they want to make sure a safer environment is present throughout the congregation. Policies and procedures should be established regarding establishing a safe congregation for members and volunteer workers; paid workers and rostered leadership.



F. RESOURCES

Safe Connections: What Parishioners Can Do to Understand and Prevent Clergy Sexual Abuse. The Rev. Jan Erickson-Pearson, ELCA Division for Ministry, 1996. Augsburg Publishers, ISBN Number 69-8110.

Healing in Congregations after Clergy Sexual Abuse: A Resource to Assist Synodical Leaders and Local Congregations of the ELCA. The Rev. Jan Erickson-Pearson, ELCA Division for Ministry, 1999. Augsburg Publishers, ISBN 6-000101799; Code Number 69.4580.

"Soul-Stealing: Power Relations in Pastoral Sexual Abuse," *The Christian Century*, Feb. 20, 1991, pp. 196-199.

Is Nothing Sacred? When Sex Invades the Pastoral Relationship. Marie Fortune. San Francisco: Harper & Row.

Sexual Assault and Abuse: A Handbook for Clergy and Religious Professionals. Mary Pellauer; Barbara Chester and Jane Boyajian, eds. San Francisco: Harper & Row.

Sex in the Forbidden Zone. Peter Rutter, Ballantine Books. Fawcett Crest. 1989.

Not in My Church. Video of one congregations struggle with allegations and the aftermath after disclosure and during the process. Center for the prevention of Sexual and Domestic Violence. 206. 634-1903.

Healers — Harmed and Harmful. Conrad Weiser. Fortress Press. 1994.

Ethics in Ministry: A Guide for the Professional. Walter Wiest and Elwyn Smith, Fortress Press. 1990.



NOTES: